



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
SECURITIES DIVISION

SUITE 680, 500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-0575

INSTRUCTIONS FOR
INVESTMENT ADVISER REGISTRATION
INVESTMENT ADVISER NOTICE FILING
INVESTMENT ADVISER REPRESENTATIVE REGISTRATION

[Revised June 22, 2005]

I. REGISTRATION OF INVESTMENT ADVISERS

A. IARD Eligible Investment Advisers

1. Submit a Completed Form ADV:
 - a. Submit Form ADV Part 1, including all applicable schedules and DRPs, through the IARD.
 - b. Submit the Paper Version of Form ADV Part 2, including all applicable schedules, directly to the Division. The form must be typed and up-to-date, including the current date on each page. The State-registered Investment Adviser Execution Page must be included and must contain a manual signature.
 - c. Blank forms (including Forms ADV and ADV-W) can be obtained from the Securities and Exchange Commission by calling 202-942-4046, or from the SEC's website at www.sec.gov/about/forms/secforms.htm. The forms are also available on the Division's website at www.state.tn.us/commerce/securities.
2. Submit the \$200.00 registration fee through the IARD (from the daily account). The registration fee is neither refundable nor prorated.
3. Organizational Documents: Submit the following documents (only those that are applicable) directly to the Division.
 - a. Corporation
 - (1) Submit a copy of the Articles of Incorporation (Charter) and all amendments **certified** by the Secretary of State for the state of incorporation.
 - (2) Submit a copy of the Corporate Bylaws and all amendments **certified** by the secretary of the corporation.
 - b. Limited Liability Company

(1) Submit a copy of the Articles of Organization (Charter) and all amendments **certified** by the Secretary of State for the state of organization.

(2) Submit a copy of the L.L.C. Operating Agreement and all amendments **certified** by a managing member of the company.

c. General Partnership

Submit a copy of the General Partnership Agreement and all amendments **certified** by a general partner.

d. Limited Partnership

Submit a copy of the Limited Partnership Agreement and all amendments **certified** by a register of deeds or similar official.

4. Financial Statement:

- a. Submit a balance sheet prepared in accordance with generally accepted accounting principles consistently applied as of a date not more than ninety (90) days prior to the date of such application, which shall demonstrate compliance with the net capital requirement for a registered investment adviser in the state in which the applicant maintains its principal place of business. For purposes of this requirement, "principal place of business" means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.
- b. For any investment adviser who has or will have custody of client funds or securities, or who requires or will require prepayment of more than five hundred dollars (\$500) in advisory fees six (6) or more months in advance, an audited balance sheet must be submitted directly to the Division. If such applicant has not yet had an audit performed pursuant to his first fiscal year of existence, he may submit an unaudited balance sheet in such detail as will disclose the nature and amount of assets and liabilities and the net worth and net capital of the applicant. Such financial statement shall be prepared as of a date within thirty (30) days of the filing date and shall be certified as to its correctness by the sole proprietor, a general partner, or a duly authorized executive officer of the applicant, and shall be accompanied by a designation of accountant to be executed by the accountant so designated to perform the investment adviser's first annual audit.

Pursuant to Rules 0780-4-3-.02(3)(a)2.(ii)(II) and 0780-4-3-.02(4)(a)2, the balance sheet must be certified by an independent certified public accountant or independent public accountant, prepared in accordance with generally accepted accounting principles consistently applied, and accompanied by an opinion of the accountant as to the investment adviser's financial condition which is unqualified, except as to matters which would not have a substantial effect on the financial condition of the investment adviser.

5. Demonstration of Compliance with Capital and Bonding Requirements:

An investment adviser applicant who maintains his principal place of business in another state shall demonstrate compliance with the net capital and bonding requirements of that

state by submitting: (a) evidence of investment adviser registration in that state; (b) a net capital computation pursuant to the requirements of that state as of a date not more than ninety (90) days prior to the date of submission; and (c) a photocopy of the current bond, if any, as filed to satisfy that state's bonding requirements.

6. Client Agreements:

Submit copies of any client agreements to be used by the applicant for residents of Tennessee.

7. The information required in Items A1b, A3, A4, A5, and A6 above may be submitted in paper format directly to the Tennessee Securities Division at the following address:

Tennessee Securities Division
Broker-dealer Section
Suite 680, 500 James Robertson Parkway
Nashville, TN 37243-0583

B. Other Investment Adviser Applicants

1. Completed Form ADV:

- a. Submit the Paper Version of Form ADV Part 1, including all applicable schedules and DRPs, directly to the Division. The form must be typed and up-to-date, including the current date on each page. The State-registered Investment Adviser Execution Page must be included and must contain a manual signature.
- b. Submit the Paper Version of Form ADV Part 2, including all applicable schedules, directly to the Division. The form must be typed and up-to-date, including the current date on each page. The State-registered Investment Adviser Execution Page must be included and must contain a manual signature. When submitting Parts 1 and 2 together, only one execution page is required.
- c. Blank forms (including Forms ADV and ADV-W) can be obtained from the Securities and Exchange Commission by calling 202-942-4046, or from the SEC's website at www.sec.gov/about/forms/secforms.htm. The forms are also available on the Division's website at www.state.tn.us/commerce/securities/IAInstructions.html.

2. Registration Fee:

Submit a \$200.00 registration fee. Checks should be made payable to the Tennessee Department of Commerce and Insurance. The registration fee is neither refundable nor prorated.

3. Organizational Documents: (Submit only those that are applicable.)

a. Corporation

- (1) Submit a copy of the Articles of Incorporation (Charter) and all amendments **certified** by the Secretary of State for the state of incorporation.

(2) Submit a copy of the Corporate Bylaws and all amendments **certified** by the secretary of the corporation.

b. Limited Liability Company

(1) Submit a copy of the Articles of Organization (Charter) and all amendments **certified** by the Secretary of State for the state of organization.

(2) Submit a copy of the L.L.C. Operating Agreement and all amendments **certified** by a managing member of the company.

c. General Partnership

Submit a copy of the General Partnership Agreement and all amendments **certified** by a general partner.

d. Limited Partnership

Submit a copy of the Limited Partnership Agreement and all amendments **certified** by a register of deeds or similar official.

4. Financial Statement:

- a. Submit a balance sheet prepared in accordance with generally accepted accounting principles consistently applied as of a date not more than ninety (90) days prior to the date of such application, which shall demonstrate compliance with the net capital requirement for a registered investment adviser in the state in which the applicant maintains its principal place of business. For purposes of this requirement, "principal place of business" means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.
- b. For any investment adviser who has or will have custody of client funds or securities, or who requires or will require prepayment of more than five hundred dollars (\$500) in advisory fees six (6) or more months in advance, an audited balance sheet must be submitted directly to the Division. If such applicant has not yet had an audit performed pursuant to his first fiscal year of existence, he may submit an unaudited balance sheet in such detail as will disclose the nature and amount of assets and liabilities and the net worth and net capital of the applicant. Such financial statement shall be prepared as of a date within thirty (30) days of the filing date and shall be certified as to its correctness by the sole proprietor, a general partner, or a duly authorized executive officer of the applicant, and shall be accompanied by a designation of accountant to be executed by the accountant so designated to perform the investment adviser's first annual audit.

Pursuant to Rules 0780-4-3-.02(3)(a)2.(ii)(II) and 0780-4-3-.02(4)(a)2, the balance sheet must be certified by an independent certified public accountant or independent public accountant, prepared in accordance with generally accepted accounting principles consistently applied, and accompanied by an opinion of the accountant as to the investment adviser's financial condition which is unqualified, except as to matters which would not have a substantial effect on the financial condition of the investment adviser.

5. Demonstration of Compliance with Capital and Bonding Requirements:

An investment adviser applicant who maintains his principal place of business in another state shall demonstrate compliance with the net capital and bonding requirements of that state by submitting: (a) evidence of investment adviser registration in that state; (b) a net capital computation pursuant to the requirements of that state as of a date not more than ninety (90) days prior to the date of submission; and (c) a photocopy of the current bond, if any, as filed to satisfy that state's bonding requirements.

6. Client Agreements:

Submit copies of any client agreements to be used by the applicant.

7. The information required in Items B1 through B6 above may be submitted in paper format directly to the Tennessee Securities Division at the following address:

Tennessee Securities Division
Broker-dealer Section
Suite 680, 500 James Robertson Parkway
Nashville, TN 37243-0583

II. NOTICE FILING INSTRUCTIONS FOR SEC REGISTERED INVESTMENT ADVISERS

An investment adviser required to register with the Securities and Exchange Commission pursuant to Section 203 of the Investment Advisers Act of 1940 and that acts as an investment adviser in Tennessee as defined by T.C.A. 48-2-102(7) shall submit a notice filing to the Division through the IARD. The filings herein required shall constitute filings with the Commissioner pursuant to T.C.A. 48-2-121(c).

1. Initial Notice Filing:

An initial investment adviser notice filing shall be filed ten (10) days prior to acting as an investment adviser in Tennessee and shall contain the following:

- a. Submit Form ADV Part 1, including all applicable schedules and DRPs, through the IARD. Form ADV Part 2 is not required to be filed until it is available through the IARD.
- b. Submit the \$100.00 notice filing fee through the IARD (from the daily account). The registration fee is neither refundable nor prorated, however, an investment adviser that has previously paid for a state registration in Tennessee through the IARD during the same calendar year will not be charged the notice filing fee.

2. Renewal Notice Filing:

- a. A renewal notice filing for each successive calendar year shall be filed pursuant to the notice filing renewal procedures of the IARD.
- b. Submit the \$100.00 notice filing fee through the IARD (from the renewal account).

3. Withdrawal of Notice Filings:

- a. An investment adviser who has filed notice in Tennessee may withdraw his notice filing at any time by submitting an amended Form ADV Part 1 through the IARD. A Form ADV-W is not required.
- b. An SEC registered investment adviser that terminates its registration with the SEC will automatically have its notice filing withdrawn from Tennessee by the IARD.
- c. All Tennessee notice filings will expire on December 31, unless renewed through the IARD.

III. REGISTRATION OF INVESTMENT ADVISER REPRESENTATIVES (RAs)

A. IARD Eligible Investment Adviser Representatives

1. Submit Form U4 electronically through Web CRD by designating the Tennessee jurisdiction box in Item 5 of Form U4.
2. Submit the RA filing fee through the CRD/IARD. There will be a \$50.00 fee charged by the Division and a \$45.00 fee charged by the NASD for each initial Form U4 filing for RA registration and each annual renewal.
3. Each applicant for initial registration as an investment adviser representative:
 - a. Shall receive a passing grade on the Uniform Investment Adviser Law Examination (UIALE/Series 65) as administered by NASD; or
 - b. Shall receive passing grades on the General Securities Representative Examination (Series 7) and the Uniform Combined State Law Examination (UCSLE/Series 66) as administered by NASD; or
 - c. Shall have been registered as an investment adviser representative in any state within the preceding twenty-four (24) months; or
 - d. Shall currently hold at least one of the following professional designations:
 - (1) Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.;
 - (2) Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, PA;
 - (3) Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;
 - (4) Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; or

- (5) Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.

B. Other Investment Adviser Representative Applicants

1. Submit a complete Form U-4 application to the Tennessee Department of Commerce & Insurance, Securities Division, Broker-dealer Section, Suite 680, 500 James Robertson Parkway, Nashville, TN 37243-0583.
2. Submit a filing fee of \$50.00. Make check payable to the Tennessee Department of Commerce and Insurance.
3. See III.A.3. above.

IV. INVESTMENT ADVISER GENERAL PROVISIONS

1. Renewal of Registration:
 - a. The investment adviser registration period begins each January 1 and ends each December 31. Unless timely renewed, a registration will expire on December 31.
 - b. All investment advisers who are eligible must apply for renewal of registration in Tennessee through the IARD, by complying with the requirements of the IARD. The \$200.00 renewal fee must be submitted through the IARD (from the renewal account).
 - c. Applications for renewal of other investment advisers must be submitted directly to the Division and must contain the following:
 - (1) The appropriate renewal form as prescribed by the Division and all information and exhibits required by such form; and
 - (2) A \$200.00 renewal fee. Checks should be made payable to the Tennessee Department of Commerce and Insurance. The renewal fee is neither refundable nor prorated.
2. Net Capital Requirements:
 - a. Except as provided under Rule 0780-4-3-.01(6)(d), every investment adviser registered or to be registered shall have and maintain a minimum net capital of fifteen thousand dollars (\$15,000).
 - b. For purposes of this paragraph, "net capital" shall be defined as total assets less total liabilities (net worth) as computed in accordance with generally accepted accounting principles consistently applied **minus** the following non-allowable assets:
 - (1) In the case of an individual: home equity, home furnishings, automobiles, goodwill, and any other personal item not readily marketable;
 - (2) In the case of a corporation: advances or loans to stockholders, officers, or affiliates, and uncollateralized receivables from stockholders, officers, or affiliates;

(3) In the case of a limited liability corporation: advances or loans to members or affiliates, and uncollateralized receivables from members or affiliates; and

(4) In the case of a partnership: advances or loans to partners or affiliates, and uncollateralized receivables from partners or affiliates.

c. The Division may require that a current appraisal be submitted in order to establish the value of any asset.

d. An investment adviser who has a principal place of business in another state shall not be subject to the net capital requirements of Rule 0780-4-3-.01(6)(a) if:

(1) The investment adviser is licensed as an investment adviser in the state in which he maintains his principal place of business;

(2) The investment adviser is in compliance with the applicable net capital requirement in the state in which he maintains his principal place of business; and

(3) The investment adviser is in compliance with applicable net capital and bonding requirements in the state in which he maintains his principal place of business.

3. Custody of Clients Funds or Securities:

a. It shall constitute an act, practice, or course of business which operates or would operate as a fraud or deceit upon another person within the meaning of T.C.A. 48-2-121(b)(2), for any investment adviser in this state who has custody or possession of any funds or securities in which any client has any beneficial interest, to do an act or take any action, directly or indirectly, with respect to any such funds or securities, unless:

(1) All such securities of each such client are segregated, marked to identify the particular client who has the beneficial interest therein, and held in safekeeping in some place reasonably free from risk of destruction or other loss; and

(2)

a. All such funds of such clients are deposited in one or more bank accounts which contain only clients' funds;

b. Such account or accounts are maintained in the name of the investment adviser as agent or trustee for such clients; and

c. The investment adviser maintains a separate record for each such account which shows the name and address of the bank where such account is maintained, the dates and amounts of deposits in and withdrawals from such account, and the exact amount of each client's beneficial interest in such account; and

(3) Such investment adviser, immediately after accepting custody or possession of such funds or securities from any client, notifies such client in writing of the place

and manner in which such funds and securities will be maintained, and thereafter, if and when there is any change in the place or manner in which such funds or securities are being maintained, gives each such client written notice thereof; and

- (4) Such investment adviser sends to each client, not less frequently than once every three months, an itemized statement showing the funds and securities in the custody or possession of the investment adviser at the end of such period, and all debits, credits, and transactions in such client's account during such period; and
 - (5) Such investment adviser complies with the reporting requirements set forth under Rule 0780-4-3-.02(4)(a)2.
 - (6) All such funds and securities of clients are verified by actual examination at least once during each calendar year by an independent public accountant at a time that shall be chosen by such accountant without prior notice to the investment adviser. A certificate of such accountant stating that an examination of such funds and securities has been made, and describing the nature and extent of the examination, shall be attached to a completed Form ADV-E and transmitted to the Division promptly after each examination, unless the investment adviser is not registered with the Division pursuant to T.C.A. 48-2-109(c)(2).
- b. This rule shall not apply to an investment adviser who is also registered as a broker-dealer under Section 15 of the 1934 Act if (a) such broker-dealer is subject to and in compliance with Rule 15c3-1 (Reg. 240.15c3-1) under the 1934 Act, or (b) such broker-dealer is a member of an exchange whose members are exempt from Rule 15c3-1 (Reg. 240.15c3-1) under the provisions of paragraph (b)(2) thereof, and such broker-dealer is in compliance with all rules and settled practices of such exchange imposing requirement with respect to financial responsibility and the segregation of funds or securities carried for the account of customers.
 - c. An investment adviser registered in this state whose principal place of business is located outside this state shall not be subject to the record maintenance requirement of Item A(2)(c) of this paragraph if such investment adviser:
 - (1) is registered or licensed as an investment adviser in the state in which the principal place of business of the investment adviser is located;
 - (2) is in compliance with the books and records requirements of the state in which the investment adviser maintains its principal place of business; and
 - (3) the provisions of Item A(2)(c) of this paragraph would require the investment adviser to maintain books and records in addition to those required under the laws of the state in which the investment adviser maintains its principal place of business.
 - d. Any investment adviser in this state who fully complies with the conditions set forth under Items A(1-5) of this paragraph may take or have custody of any funds or securities of any client.
 - e. Any investment adviser who is not registered with the Division under T.C.A. 48-2-109(c)(2) who fully complies with Rule 206(4)-2 promulgated under the investment

Advisers Act of 1940 [17CFR 275.206(4)-2] may take or have custody of any funds or securities of any client.

- f. As used herein, “principal place of business” of an investment adviser means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

4. Broker-dealers who act as Investment Advisers:

- a. A broker-dealer may transact business in Tennessee as an investment adviser if it is appropriately registered as an investment adviser pursuant to Section 203 of the Investment Advisers Act of 1940, provided that the broker-dealer makes the appropriate investment adviser notice filings.
- b. A broker-dealer acting as an investment adviser as defined by T.C.A. 48-2-102(7) who is ineligible to register pursuant to Section 203 of the Investment Advisers Act of 1940 must register separately as an investment adviser with the Tennessee Securities Division.

5. Exemptions From Investment Adviser Registration:

Tennessee Securities Rule 0780-4-3-.05 provides that:

(1) The following persons shall be exempted from the registration requirements for investment advisers set forth in the Tennessee Securities Act of 1980 (Act) in section 48-2-109;

(a) Any person domiciled in this state whose only investment advisory clients are Insurance companies; or

(b) Any person domiciled in this state who, during the course of the preceding twelve months, has had fewer than fifteen (15) clients and who neither holds himself out generally to the public as an investment adviser nor acts as an investment adviser to any investment company registered under the Investment Company Act.

(2)

(a) No person who is a registered agent or a partner, officer, director or principal of a registered broker-dealer is eligible for the exemption under paragraph (1) of this rule.

(b) No person who is a partner, officer, director, contracted representative or non-clerical, non-ministerial employee of a registered investment adviser is eligible for the exemption under paragraph (1) of this rule.

(3) This rule shall not be construed to exempt any person from the operation of the anti-fraud provisions of the Act.

6. Forms:

- a. Blank uniform forms (including Forms ADV, ADV-E, ADV-H, ADV-NR, and ADV-W) can be obtained from the Securities and Exchange Commission by calling 202-942-4046, or from the SEC's website at www.sec.gov/about/forms/secforms.htm. The forms are also available on the Division's website at www.state.tn.us/commerce/securities. Forms U4 and U5 may be obtained from the NASD at www.nasd.com or from NASD Media Source at 301-590-6142.
- b. The Designation of Accountant form and the Application for Renewal of Investment Adviser Registration form (for non-IARD registrants only) are available on the Division's website at www.state.tn.us/commerce/securities or by calling the Division at 615-741-3187.

V. NASAA / NASD Investment Adviser Registration Depository (IARD)

Pursuant to Tennessee Securities Rule 0780-4-3-.01(3), investment advisers who are eligible must apply for initial registration in Tennessee through the Investment Adviser Registration Depository (IARD). The IARD is a joint effort by the Securities and Exchange Commission (SEC) and the North American Securities Administrators Association (NASAA). The National Association of Securities Dealers, Inc. (NASD), acting as a vendor only, operates the IARD. It is an Internet-based computer system for processing registration applications, notice filings, annual renewals, and related fees. This system presently eliminates paper filings of Part 1 of the Form ADV, allows single filings to satisfy federal and state requirements for federally registered investment advisers, allows automatic fee payments, and offers easier access to information on registrants for the investing public.

The SEC adopted rules mandating that all SEC-registered investment advisers use the IARD, beginning January 2001. Please visit www.sec.gov/iard for more information regarding SEC rules changes. Form ADV Part 1 has been revised to accommodate this electronic format for SEC registration filings, as well as state registration and notice filings. The Paper Version of the complete Form ADV is available at www.sec.gov/about/forms/secforms.htm. Form ADV Part 2 has not yet been revised, and must be filed on paper by state-registered investment advisers. The conversion of Form ADV Part 2 to an electronic format in IARD is expected to take place soon. Forms U4 and U5 are filed electronically through the Central Registration Depository (CRD).

IARD entitlement packets for state registered investment advisers and new applicants are available on the NASD IARD website at www.iard.com. After submitting the appropriate forms to the NASD, you will receive further instructions from the NASD regarding the filing of the electronic Form ADV through the IARD and Form U4 through the CRD. State-registered investment advisers will be charged an initial fee of \$150.00 by the NASD for setting up an IARD user account, and an annual user fee of \$100.00 for each year thereafter. Additional general information regarding the IARD and state investment adviser regulation can be found at the following websites:

www.iard.com
www.sec.gov
www.nasaa.org
www.state.tn.us/commerce/securities

V. NOTICES

While these instructions were prepared by the Tennessee Securities Division and were drawn from the Tennessee Securities Act of 1980, as amended, and the Tennessee Securities Rules promulgated under the Act, these instructions do not pre-empt, supersede, or replace the Act and Rules as adopted. These instructions may be amended at any time and are intended to be used solely as a guide for investment adviser registrations and notice filings in Tennessee. The Tennessee Securities Division is not bound by any electronic copy or alteration of this document by other parties. Please direct any questions regarding investment adviser registrations and notice filings to the Tennessee Securities Division, Broker-dealer Section at 615-741-3187 (phone), 615-532-8375 (fax), or Securities.2@state.tn.us (e-mail). Please visit the Division's website at www.state.tn.us/commerce/securities for additional information.

The Tennessee Securities Act of 1980 (Tennessee Code 48-2-101 et seq.) may be viewed at www.lexislawpublishing.com/resources.

The Tennessee Securities Rules may be viewed at www.state.tn.us/sos/rules/rules.htm (Chapter 0780-4).

The Tennessee Securities Act and Rules are also available in the Commerce Clearing House Blue Sky Law Reporter.



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
SECURITIES DIVISION

SUITE 680, 500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-0575
615-741-2947

PROFESSIONAL PRIVILEGE TAX

Pursuant to Tennessee Code Annotated 67-4-1701 et seq., certain licensed and/or registered professionals, including **BROKER-DEALERS, BROKER-DEALER AGENTS, and INVESTMENT ADVISERS**, are subject to an annual \$400.00 Professional Privilege Tax. This tax is in addition to any registration or renewal fees under the Tennessee Securities Act of 1980, and is collected separately by the Tennessee Department of Revenue.

The Professional Privilege Tax is due on June 1 of each year. Tax returns will be mailed by the Tennessee Department of Revenue to each registered **BROKER-DEALER, BROKER-DEALER AGENT, and INVESTMENT ADVISER** prior to June 1 of each year.

DO NOT SEND PROFESSIONAL PRIVILEGE TAX RETURNS OR PAYMENTS TO THE TENNESSEE SECURITIES DIVISION OR THE NASAA/NASD CENTRAL REGISTRATION DEPOSITORY.

You may contact the Tennessee Department of Revenue at the following address and telephone numbers for further information regarding the Professional Privilege Tax:

Tennessee Department of Revenue
500 Deaderick Street
Andrew Jackson Building
Nashville, Tennessee 37242

INSIDE TENNESSEE: 800-342-1003
OUTSIDE TENNESSEE: 615-253-0600

E-MAIL: TN.Revenue@state.tn.us
WEBSITE: www.state.tn.us/revenue